

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

WISCONSIN LABORERS HEALTH FUND,
WISCONSIN LABORERS PENSION FUND,
BUILDING & PUBLIC WORKS LABORERS VACATION FUND,
THOMAS FISHER, WISCONSIN LABORERS DISTRICT COUNCIL,
WISCONSIN MASONS PENSION FUND,
WISCONSIN MASONS HEALTH CARE FUND,
WISCONSIN MASONS APPRENTICESHIP & TRAINING FUND,
JEFFREY LECKWEE and BRICKLAYERS AND ALLIED
CRAFTSMEN DISTRICT COUNCIL OF WISCONSIN

Plaintiffs,

v.

Case No. 08-CV-1087

TURCK EXCAVATING & ENVIRONMENTAL SERVICES, INC.
and FRANK R. TURCK,

Defendants.

ORDER

On December 11, 2008, plaintiffs filed a complaint against the named defendants alleging that defendants failed to make timely payments on behalf of their employees covered by one or more collective bargaining agreements, and that defendants failed to accurately report employee work status to plaintiffs. A summons for each defendant was returned executed by plaintiffs on December 31, 2008. (Docket #'s 4-5). According to these summonses, defendants were served on December 19, 2008. As such, defendants' responsive pleadings were due on January 8, 2009. However, defendants have not filed pleadings responsive to the complaint, and no other filing has been made by either party.

Pursuant to Civil Local Rule 41.2, in all cases in which a defendant has failed to file an answer or otherwise defend within six months from the filing of the complaint and

the plaintiff has not moved for a default judgment, the court may, on its own motion, after 20 days' notice to the attorney of record for the plaintiff, enter an order dismissing the action for lack of prosecution. See Civil L.R. 41.2. More than six months have passed since plaintiffs filed their complaint and defendants have not filed responses to the complaint. Nor have plaintiffs moved for a default judgment. Therefore, the court concludes that plaintiffs are not diligently prosecuting this action. Accordingly, the court grants plaintiffs 20 days to file a motion for default judgment.

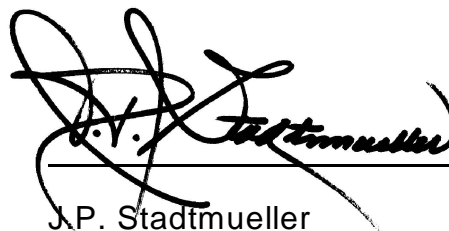
If defendants do not file responses to plaintiffs' complaint, and plaintiffs fail to file a motion for default judgment within 20 days from the date of this order, the court will dismiss this action without prejudice pursuant to Civil Local Rule 41.2. The court notes that under Civil Local Rule 41.2, any affected party can petition for reinstatement of this action within 20 days from the date of the dismissal.

Accordingly,

IT IS ORDERED that plaintiffs shall have twenty (20) days from the date of this order to move for default judgment if no responses are filed by defendants; if no responses are filed by defendants and plaintiffs fail to file a motion for default judgment within twenty (20) days of the date of this order, the court will dismiss this action without prejudice.

Dated at Milwaukee, Wisconsin, this 10th day of July, 2009.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J.P. Stadtmueller", is written over a horizontal line. The signature is stylized and cursive.

J.P. Stadtmueller
U.S. District Judge